

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

99-E-0410

IN THE MATTER OF THE LIQUIDATION OF  
TUFTS HEALTH PLAN OF NEW ENGLAND, INC.

**ASSENTED-TO MOTION TO CONVERT SCHEDULED HEARING INTO  
STATUS CONFERENCE**

Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, in his capacity as the duly appointed Successor Liquidator of Tufts Health Plan of New England, Inc. ("TNE" and the "Liquidator," respectively), moves for the entry of an order of this Court converting the hearing, currently scheduled in this matter for July 30, 2004, into a status conference, and in support of this assented-to motion, states the following:

1. This matter is currently scheduled for a hearing on Liquidator's Motion to Direct Transfer of Rhode Island Special Deposits Pursuant to Plan of Liquidation (the "Motion"), an Objection to which was filed by Marilyn Shannon McConaghy, Director of the Department of Business Regulation of the State of Rhode Island, in her capacity as the duly appointed Successor Ancillary Receiver of TNE (the "Ancillary Receiver") on July 6, 2004.

2. On July 13, 2004, the Ancillary Receiver informed the Liquidator that she intended to file a lawsuit in federal court requesting declaratory relief with respect to a transfer of the Special Deposits prior to the scheduled hearing date of July 30, 2004, if the Liquidator continued to pursue the relief requested in the Motion.

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3. The Liquidator wishes to avoid the additional costs to the Estate that would be occasioned by such federal court litigation, and is currently in further discussions with the Ancillary Receiver to identify a resolution of the outstanding difficulties raised by the decision in *Ruthardt v. U.S.*, 303 F.3<sup>rd</sup> 376 (1<sup>st</sup> Cir. 2002), *cert. denied sub nom Bowler v. U.S.*, 538 U.S. 1031 (2003) as they relate to the Special Deposits.

4. The Ancillary Receiver has agreed to desist from filing any legal pleadings with respect to the issues raised in *Ruthardt*, pending efforts by the Liquidator and the Receiver to achieve a stipulated resolution with respect to the Special Deposits.

5. The parties will endeavor in earnest to arrive at such stipulated resolution prior to July 30, 2004, and will, in any event, apprise the Court at the time of the status conference of their discussions.

6. The parties make this request in the interest of judicial economy and in the interest of preserving to the greatest extent possible the assets in the Estate.

7. The Ancillary Receiver consents to the granting of this motion.

8. Tufts Associated Health Maintenance Organization ("TAHMO") and its affiliates, the sole remaining claimants in this liquidation proceeding, also consent to the granting of this motion.

WHEREFORE, the Liquidator requests that this Court presently enter an order converting the hearing on his Motion, currently scheduled for July 30, 2004, to a status conference in this matter, and granting the Liquidator such other and further relief as is just.

Dated: July 16, 2004

Respectfully submitted,

ROGER A. SEVIGNY,  
COMMISSIONER OF  
INSURANCE OF THE STATE OF NEW  
HAMPSHIRE, AS SUCCESSOR  
LIQUIDATOR OF TUFTS HEALTH  
PLAN OF NEW ENGLAND, INC.  
By his attorneys,

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/ s /

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of July 2004, a copy of the foregoing Assented-to Motion to Convert Scheduled Hearing into a Status Conference was served upon the parties on the attached service list, via first class mail, postage prepaid.

/ s /

Monica A. Ciolfi

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